REGISTERED No. M. 7463

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. VIII] Trivandrum, Monday, 4th November 1963 / 13th Kartika 1885 [No. 118

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PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1963.

Kerala Gazette extraordinary No. 118 dated 4-11-1963.

GOVERNMENT OF KERALA

LAW DEPARTMENT

NOTIFICATION

No. 9469|F1|63|Law.

Dated, Trivandrum, the 4th November 1963|
13th Kartika 1885.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly, received the assent of the President on the 30th day of October, 1963.

By order of the Governor,
P. SANKARAN ELAYATH,
Law Secretary.

ACT 32 OF 1963

THE MAPPILLA MARUMAKKATHAYAM (AMENDMENT) ACT, 1963.

An Act to amend the Mappilla Marumakkathayam Act, 1939 (Madras Act 17 of 1939).

Preamble.—WHEREAS it is expedient to amend the provisions of the Mappilla Marumakkathayam Act, 1939, for the purposes hereinafter appearing;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Mappilla Marumakkathayam (Amendment) Act, 1963.

(2) It shall come into force at once.

2. *Amendment of Preamble.*—In the Preamble to the Mappilla Marumakkathayam Act, 1939, (Madras Act XVII of 1939), hereinafter referred to as the principal Act, for the word "Mappillas" the word "Muslims" shall be substituted.

3. *Amendment of section 1.*—In section 1 of the principal Act,—

(i) in sub-section (a), for the word "Mappilla" the word "Muslim" shall be substituted;

(ii) for sub-section (b), the following sub-section shall be substituted, namely:—

'(b) It shall apply to all Muslims following the Marumakkathayam law, who are either domiciled in the State of Kerala, or have property situate within the State of Kerala.'

4. *Insertion of new section.*—After section 13 of the principal Act, the following section shall be inserted, namely:—

"13-A. *Devolution of interest in the property of Tarwad.*—When any member of a Muslim Tarwad dies after the date of publication of the Mappilla Marumakkathayam (Amendment) Bill, 1962, in the Gazette, namely 3rd September 1962 having at the time of his or her death an interest in the property of the Tarwad, his or her interest in the property sball devolve according to the Muslim Personal Law (Shariat) and not according to the Marumakkathayam Law. Notwithstanding anything contained in this Act any person on whom such right devolves may claim to take his or her share of the properties of the Tarwad.

Explanation.—For the purposes of this section the interest of a member of a Muslim Tarwad in the property of the Tarwad sball be deemed to be the share in the property of the Tarwad that would have fallen to him or her if a partition of that property per capita had been made immediately before his or her death among the members of the Tarwad then existing, and such share shall be deemed to have been allotted to him or her absolutely."

Kerala Gazette extraordinary No. 118 dated 4-11-1963.

GOVERNMENT OF KERALA 97704

LAW DEPARTMENT

NOTIFICATION

No. 676|63|Law(J)1.

Dated, Trivandrum, the 4th November 1963|
13th Kartika 1885.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 29th day of October, 1963.

By order of the Governor,
P. SANKARAN ELAYATH,
Law Secretary.

ACT 33 OF 1963

THE KERALA MONEY LENDERS (AMENDMENT) ACT, 1963

An Act to amend the Kerala Money Lenders Act, 1958.

Preamble.—WHEREAS it is deemed expedient to amend the Kerala Money Lenders Act, 1958 (Act 35 of 1958), for the purposes hereinafter appearing;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Money Lenders (Amendment) Act, 1963.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Money Lenders Act, 1958 (Act 35 of 1958), hereinafter referred to as the principal Act,—

(i) clause (1) shall be renumbered as clause (1A), and before clause (1A) as so renumbered, the following clause shall be inserted, namely:—

"(1) "appellate authority" means any officer or authority appointed by the Government to exercise the powers of an appellate authority under this Act;";

(ii) in clause (1A), the words brackets, letter and figures "and any subsidiary bank within the meaning of clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959" shall be added at the end;

(iii) after clause (4), the following clause shall be inserted, namely:—

"(4A) "licensing authority" means an officer or authority appointed by the Government to perform the functions of a licensing authority under this Act;";

(iv) for sub-clause (vii) of clause (5), the following sub-clause shall be substituted, namely:—

"(vii) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881 (Central Act 26 of 1881), other than on the basis of a promissory note for an amount not exceeding three thousand rupees;";

(v) for clause (7), the following clause shall be substituted, namely:—

"(7) "money lender" means a person whose main or subsidiary occupation is the business of advancing and realising loans and includes a pawnbroker, but shall exclude a bank or a co-operative society or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956 (Central Act 31 of 1956).

Explanation I.—Where a person, who carries on in the State of Kerala, the business of advancing and realising loans is resident outside the State, the agent of such person resident in the State shall be deemed to be the money lender in respect of that business for the purposes of this Act.

Explanation II.—For the purposes of this clause, clause (7A), proviso to sub-section (1) of section 3, clause (a) of sub-section (3) of section 10, section 16A, and section 17, the word "person" shall include "a firm or a joint family;";

(vi) after clause (7), the following clauses shall be inserted, namely:—

"(7A) "pawnbroker" means a person who carries on the business of taking goods and chattels in pawn for a loan.

Explanation.—Every person who keeps a shop for the purchase or sale of goods or chattels and who purchases goods or chattels and pays or advances thereon any sum of money, with or under any agreement or understanding expressed or implied that the goods or chattels may be afterwards repurchased on any terms is a pawnbroker within the meaning of this clause;

(7B) "pawner" means a person delivering an article for pawn to a pawnbroker;

(7C) "pledge" means an article pawned with a pawnbroker;"; and

(vii) in clause (9), the words "or the pawner" shall be added at the end.

3. *Amendment of section 4.*—In section 4 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Every order of the licensing authority under sub-section (3) shall be communicated to the applicant in such manner as may be prescribed".

4. *Substitution of new section for section 6.*—For section 6 of the principal Act, the following section shall be substituted, namely:—

"6. *Money lenders to exhibit their names over shops.*—Every money lender other than a pawnbroker shall always keep exhibited over his shop or place of business bis name with the word "money lender" and its equivalent in the regional language and every pawnbroker shall always keep exhibited over his shop or place of business his name with the word "pawnbroker" and its equivalent in the regional language.".

5. *Amendment of section 7.*—In section 7 of the principal Act, for sub-section (1) the following sub-section shall be substituted, namely:—

"(1) No money lender shall charge interest on any loan at a rate exceeding twelve per cent per annum simple interest:

Provided that a money lender shall be entitled to charge a minimum of fifty naye paise as interest on any transaction".

6. *Amendment of section 9.*—In section 9 of the principal Act—

(1) in sub-section (1), for the opening words "Every money-lender shall", the words "Every money-lender other than a pawnbroker shall" shall be substituted;

(2) in sub-section (6), after the words "If any money-lender", the words "other than a pawnbroker" shall be inserted.

7. *Insertion of new sections 9A to 9H.*—After section 9 of the principal Act, the following sections shall be inserted, namely:—

"9A. *Pawn-ticket to be given to the pawner.*—Every pawnbroker shall, on taking a pledge in pawn, give to the pawner a pawn-ticket in the prescribed form and shall not take a pledge in pawn unless the pawner takes the pawn-ticket.

9B. *Person producing pawn-ticket presumed to be entitled to redeem the pledge.*—(1) The holder for the time being of a pawn-ticket shall be presumed to be the person entitled to redeem the pledge, and subject to the provisions of this Act, every pawnbroker shall, on payment of the principal and interest, deliver the pledge to the person producing the pawn-ticket, and he is hereby indemnified for so doing.

(2) Except as otherwise expressly provided in this Act, a pawnbroker shall not be bound to deliver back a pledge unless the pawn-ticket for it is delivered to him.

9C. *Protection of owners and of pawners not having pawn-tickets.*—(1) The following provisions shall have effect for the protection of owners of articles pawned, and of pawners not having their pawn-tickets to produce:—

(a) Any person claiming to be the owner of a pledge but not having the pawn-ticket, or any person claiming to be entitled to hold a pawn-ticket, but alleging that the same has been lost, mislaid, destroyed or stolen or fraudulently obtained from him, may apply to the pawn-broker for a printed form of declaration (which shall be in the prescribed form), which the pawnbroker shall deliver to him:

Provided that an application shall not be made under this clause where the loan exceeds two hundred and fifty rupees unless the applicant has caused a public notice of his claim, containing such particulars as may be prescribed, to be published in the prescribed manner for not less than the prescribed number of days before the date of the application.

(b) If the applicant delivers back to the pawnbroker the declaration duly made before the Magistrate or Judge by the applicant and by a person identifying him, the applicant shall have, as between himself and the pawnbroker, all the rights and remedies as if he had produced the pawn-ticket:

Provided that such a declaration shall not be effectual for that purpose—

(i) in cases where the loan exceeds two hundred and fifty rupees, unless the applicant executes a bond with two sureties, to the satisfaction of the pawnbroker or of such authority or person as may be prescribed in this behalf, agreeing to indemnify the pawnbroker in respect of any liability which may be incurred by him by reason of delivering the pledge or otherwise acting in conformity with the declaration; and

(ii) in all cases, unless the declaration is duly made and delivered back to the pawnbroker within such period after the delivery of the form to the applicant, as may be prescribed.

(c) The pawnbroker is hereby indemnified for not delivering the pledge to any person until the expiration of the period aforesaid.

(d) The pawnbroker is hereby further indemnified for delivering the pledge or otherwise acting in conformity with the declaration, unless he has had notice within the meaning of the Transfer of Property Act, 1882. that the declaration was fraudulent or was false in any material particular.

(2) Any person making a declaration under sub-section (1), either as an applicant or as identifying an applicant, knowing the same to be false in any material particular, shall be punished with imprisonment for a term which may extend

to six months or with fine which may extend to one hundred rupees or with both.

9D. *Pawnbrokers to keep books, give receipts, etc.*—(1) Every pawnbroker shall—

(a) regularly record and maintain or cause to be recorded and maintained in a pledge book in the prescribed form, an account showing for each pawner separately—

(i) the date of the loan, the amount of the principal of the loan and the rate of interest charged on the loan per cent per annum, per rupee per mensem and per rupee per annum;

(ii) the amount of every payment received by the pawnbroker in respect of the loan, and the date of such payment;

(iii) a full and detailed description of the article or of each of the articles taken in pawn;

(iv) the time agreed upon for the redemption of the pawn; and

(v) the name and address of the pawner, and where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof;

(b) keep and use in his business the following documents and books (which shall be in the prescribed form) and enter therein from time to time, as occasion requires, in a fair and legible manner such particulars and in accordance with such directions as may be prescribed:—

(i) pawn-ticket;
(ii) sale book of pledges;
(iii) declaration where pledge is claimed by owner;
(iv) declaration of pawn-ticket lost; and
(v) receipt on redemption of pledge;

(c) give to the pawner or his agent a receipt for every sum paid by him, duly signed and, if necessary, stamped at the time of such payment;

(d) on requisition in writing made by the pawner, furnish to the pawner or, if he so requires, to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent, showing the particulars referred to in clause (a) and also the amount which remains outstanding on account of the principal and of interest, and charge such sum as the Government may prescribe as fee therefor; and

(e) submit to the Inspector concerned such returns relating to the loans advanced by him, in such form and at such times as may be prescribed.

(2) All records or entries made in the books, accounts and documents referred to in sub-section (1) shall be in such language or languages as may be prescribed in respect of any area; and all such books, accounts and documents and all pledges taken by the pawnbroker shall be open to inspection at any time by the licensing authority, or by the Inspectors appointed under section 10 or by any officer authorised in this behalf by the Government.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872, a copy of the account referred to in clause (a) of sub-section (1), certified in such manner as may be prescribed shall be admissible in evidence in the same manner and to the same extent as the original account.

(4) A pawner to whom a statement of account has been furnished under clause (d) of sub-section (1) and who fails to object to the correctness of the account shall not, by such failure alone, be deemed to have admitted the correctness of such account.

(5) In the pawn-ticket furnished to the pawner, in the receipt given under clause (c) of sub-section (1) and in the statement of accounts furnished under clause (d) of that sub-section, the figures shall be entered only in Arabic numerals.

(6) If any pawnbroker fails to give to the pawner or his agent a receipt under clause (c) of sub-section (1), he shall be liable to a fine not exceeding two hundred and fifty rupees.

9E. *Redemption of pledge.*—(1) Every pledge shall be redeemable within one year from the day of pawning, exclusive of that day; and there shall be added to that year of redemption seven days of grace within which every pledge (if not redeemed within the period of redemption) shall continue to be redeemable.

(2) A pledge shall further continue to be redeemable until it is disposed of as provided in this Act, although the period of redemption and days of grace have expired.

Explanation.—Where the contract between the parties provides a longer period for redemption than one year, the provisions of sub-sections (1) and (2) of this section and sub-section (1) of Section 9F shall be read and construed as if references to such longer period had been substituted for the references to the period of one year therein.

9F. *Sale of pledge and inspection of sale book.*—(1) A pledge may be disposed of by the pawnbroker, after the expiry of one year and the days of grace provided in sub-section (1) of Section 9E by sale by auction and not otherwise, and the sale shall be conducted in accordance with such rules as may be prescribed.

(2) A pawnbroker may bid for and purchase at a sale by public auction conducted under sub-section (1), a pledge pawned with him; and on such purchase, he shall become the absolute owner of the pledge.

(3) At any time within three years after the public auction, the holder of the pawn-ticket may inspect the entry relating to the sale either in the pawnbroker's book or in such catalogue of the auction as may be prescribed.

(4) (a) Where on such inspection or otherwise the pledge appears to have been sold for more than the amount of the loan and the interest and charges due at the time of the sale, the pawnbroker shall pay to the holder of the pawn-ticket, on demand made within three years after the sale, the surplus after deducting therefrom the necessary costs and charges of the sale.

(b) If on such demand it appears that the sale of the pledge has resulted in a surplus but that within twelve months before or after such sale, the sale of another pledge or pledges of the same person has resulted in a deficit, the pawnbroker may set off the deficit, against the surplus and shall be liable to pay only the balance, if any, after such set off.

9G. *Liability of pawnbroker in case of theft or fire.*—Where a pledge is lost by theft or destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable on application made within the period during which the pledge would have been redeemable, to pay the value of the pledge, after deducting the amount of the principal and interest.

Explanation.—For the purposes of this sub-section, the value of the pledge shall be its estimated value, if any, entered in the pledge book at the time of the pawn together with interest on the amount of the principal and shall in no case be less than the aggregate of the amount of the principal and interest and twenty-five per cent on the amount of the principal.

9H. *Compensation for depreciation of pledge.*—If a person entitled and offering to redeem a pledge shows to the satisfaction of a Civil Court having jurisdiction to entertain a suit for such redemption that the pledge has become or has been rendered of less value than it was at the time of pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker, the Court may, if it thinks fit, award reasonable compensation to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker, as the case requires, in such manner as the Court directs.".

8. *Amendment of section 14.*—For sub-section (3) of section 14 of the principal Act, the following sub-section shall be substituted, namely:—

"(3) Every order of the licensing authority under this section shall be communicated to the licensee in such manner as may be prescribed.".

9. *Insertion of new section 16A.*—After section 16 of the principal Act, the following section shall be inserted, namely:—

"16A. *Appeals.*—(1) Any person aggrieved by an order of the licensing authority under sub-section (3) of section 4 or sub-section (1) of section 14 may, within thirty days from the date of communication of such order, appeal in such manner as may be prescribed to the appellate authority having jurisdiction over the area.

(2) The appellate authority may admit an appeal preferred after the period of thirty days aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(3) The appellate authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as it may deem fit.

(4) Every order passed by the appellate authority shall be communicated to the appellant and to the licensing authority in such manner as may be prescribed.".

10. *Insertion of new sections 18A and 18B.*—After section 18 of the principal Act, the following sections shall be inserted, namely:—

"18A. *Certain acts of pawnbrokers to be punishable.*—A pawnbroker who—

(1) takes an article in pawn from any person appearing to be under the age of eighteen years, or to be intoxicated; or

(2) purchases or takes in pawn or exchanges a pawn-ticket issued by another pawnbroker; or

(3) employs any person under the age of eighteen years to take pledges in pawn; or

(4) under any pretence purchases, except at a public auction; any pledge while in pawn with him; or

(5) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it; or

(6) makes any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof, for the purchase, sale, or disposition thereof within the time of redemption; or

(7) sells or otherwise disposes of any pledge pawned with him except at such time and in such manner as is authorised by or under this Act,
shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

18B. *Certain acts of pawners to be punishable.*—Any person who—

(a) offers to a pawnbroker an article by way of pawn, being unable or refusing to give a satisfactory account of the means by which he became possessed of the article; or

(b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article; or

(c) not being entitled to redeem, and not having any colour of title by law to redeem a pledge, attempts or endeavours to redeem the same,
shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

(2) In every case falling under sub-section (1) and also in any case where, on an article being offered in pawn, for sale or otherwise, to a pawnbroker he reasonably suspects that it has been stolen or otherwise illegally or clandestinely obtained, the pawnbroker shall, in the absence of reasonable excuse, inquire into the name and address of the person concerned, and seize and detain such person and the article, if any, and forthwith communicate to the nearest police station the facts of the case and shall deliver the person and the article, if any, seized to the police.

(3) A list of properties believed to have been stolen may be delivered by the police to any pawnbroker licensed under this Act and thereupon it shall be the duty of such pawnbroker—

(a) if any article answering the description of any of the properties set forth in any such list is offered to him in pawn, for sale, or otherwise, to proceed in accordance with the provisions of sub-section (2); and

(b) If any such article is already in his possession, forthwith to communicate to the nearest police station the facts of the case (including full particulars as to the name and address of the person concerned in the delivery of the article to the pawnbroker) and also, if so required by the police, to deliver the article to them".

11. *Amendment of section 20.*—In section 20 of the principal Act, for the words "lose his right", the words "lose his lien on or right to the pledge or" shall be substituted.

12. *Insertion of new section 22.*—After section 21 of the principal Act, the following section shall be inserted, namely—

"22. *Repeal.*—The Madras Pawnbrokers Act, 1943 (Madras Act XXIII of 1943) as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), is hereby repealed".

Kerala Gazette extraordinary No. 118 dated 4-11-1963.

GOVERNMENT OF KERALA

LAW DEPARTMENT

NOTIFICATION

No. 7632|62|Law (J)1.

Dated, Trivandrum, the 4th November 1963|
13th Kartika 1885.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 29th day of October, 1963.

By order of the Governor,
P. SANKARAN ELAYATH,
Law Secretary.

ACT 34 OF 1963

THE KERALA STATE AID TO INDUSTRIES ACT, 1963

An Act to consolidate and amend the laws relating to the giving of State aid to industries in the State of Kerala.

Preamble.—WHEREAS it is expedient to consolidate and amend the laws relating to the giving of State aid to industries in the State of Kerala;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala State Aid to Industries Act, 1963.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) 'Board' means the State Aid to Industries Board constituted under section 3;

(2) 'company' means a company as defined in section 3 of the Companies Act, 1956 (Central Act I of 1956) and includes a foreign company within the meaning of section 591 of that Act;

(3) 'Director' means the Director of Industries and Commerce and includes any person appointed by the Government either by name or by virtue of his office to perform all or any

of the functions of the Director of Industries and Commerce under this Act;

(4) 'industry' means any industrial business or enterprise conducted in the State by any individual, institution, company, association or body of individuals whether incorporated or not and includes a cottage industry, a small scale industry, and a village industry; but shall not include an industry organised on co-operative basis which is eligible for financial assistance from the Central or State Government or a Co-operative Bank under any specific development programme;

(5) 'cottage industry' means an industrial business or enterprise carried on in any premises to which the Factories Act, 1948 (Central Act 63 of 1948), does not apply, and includes dairy farming, bee-keeping and keeping a poultry farm;

(6) 'small scale industry' means an industrial business or enterprise the capital invested in which does not exceed five lakhs of rupees;

(7) 'village industry' means any industry which forms the normal occupation, whether whole-time or part-time, of any class of the rural population of the State;

(8) 'machinery' includes plant, apparatus, tools and other appliances required for the purpose of carrying on any industrial operation or process;

(9) 'owner' means the person who owns any industrial undertaking and includes the successor-in-interest of such person in respect of such undertaking;

(10) 'prescribed' means prescribed by rules made under this Act;

(11) 'State' means the State of Kerala;

(12) 'State aid' means any aid given by or on behalf of the Government under the provisions of this Act and the rules, if any, made thereunder.

CHAPTER II

The State aid to Industries Board

3. *Constitution of State Aid to Industries Board.*—(1) There shall be constituted a State Aid to Industries Board consisting of the following members, namely:—

(a) The Director of Industries and Commerce, *ex officio;*

(b) An officer of the Finance Department of the Government Secretariat not below the rank of a Joint Secretary to be nominated by the Government;

(c) An officer of the Industries Department of the Government Secretariat not below the rank of a Deputy Secretary to be nominated by the Government;

(d) Three members to be elected by the members of the Kerala Legislative Assembly from among themselves in accordance with the system of proportional representation by means of the single transferable vote;

(e) Three members representing industrial and commercial interests to be nominated by the Government;

(f) Two members representing organised trade unions to be nominated by the Government; and

(g) One member representing economists or statisticians to be nominated by the Government.

(2) The Director of Industries and Commerce shall be the Chairman of the Board.

(3) The nomination, election, resignation or removal of the members of the Board shall be notified by the Government in the Gazette.

(4) The Board shall assist the Government in dealing with applications for the grant of State aid under this Act.

(5) All questions at a meeting of the Board shall be decided by the votes of the majority of the members present and voting.

(6) No member shall vote on or take part in the discussion of any question coming up for consideration at a meeting of the Board if the question is one in which he has any direct or indirect pecuniary interest by himself or his partner or in which he is interested professionally on behalf of a client or as agent for any person other than the Government or a local authority.

(7) No proceedings of the Board shall be deemed to be invalid on account of any defect or irregularity in the Constitution of the Board or any vacancy thereof.

4. *Term of office of members.*—Subject to the provisions of this Act every member of the Board other than the *ex officio* member shall hold office for a period of three years from the date of the first meeting of the Board but shall be eligible for re-nomination or re-election, as the case may be:

Provided that a member whose term of office has expired shall continue to hold office until his successor assumes office:

Provided further that a member nominated or elected under sub-section (1) of section 3 shall cease to be a member of the Board—

(i) in the case of a member nominated under clause (b) or clause (c) of sub-section (1) of section 3, when he ceases to be an officer of the Finance Department or the Industries Department as the case may be;

(ii) in the case of a member elected under clause (d) of sub-section (1) of section 3, when he ceases to be a member of the Legislative Assembly; and

(iii) in the case of a member nominated under clause (e) or clause (f) or clause (g) of sub-section (1) of section 3, in the opinion of the Government, when he ceases to have the representative capacity specified in the said respective clauses,

but the member shall continue to hold office until the vacancy is filled up:

Provided also that a member nominated or elected to fill a casual vacancy shall assume office forthwith, but shall hold office so long only as the member in whose place he is nominated or elected as the case may be, would have been entitled to hold office if the vacancy had not occurred.

5. *Resignation.*—Any member of the Board other than the *ex officio* member may resign by tendering his resignation in writing to the Government and, on such resignation being accepted by the Government, shall be deemed to have vacated office.

6. *Removal of members.*—(1) The Government may remove from office any member of the Board other than the *ex officio* member if he—

(a) becomes subject to any physical or mental disability, which, in the opinion of the Government renders him unfit to be a member of the Board, or

(b) is convicted of any such offence or is subjected by any Criminal Court to any such order as in the opinion of the Government implies a defect of character which renders him unfit to continue as a member of the Board, or

(c) without excuse sufficient in the opinion of the Board, absents himself without the consent of the Board from more than three consecutive meetings of the Board, or

(d) contravenes the provisions of sub-section (6) of section 3:

Provided that before removing any member from his office under this sub-section he shall be given an opportunity to show cause against the action proposed to be taken.

(2) The Government may, by notification in the Gazette, fix a period during which any person so removed shall not be eligible for re-nomination or re-election, as the case may be.

7. *Filling up of vacancies.*—When the office of any member of the Board becomes vacant by the expiration of his term, resignation, removal or death, a new member shall be nominated or elected, as the case may be, to fill the vacancy.

8. *Presidency at meetings.*—(1) The Chairman shall preside at the meetings of the Board and shall have and exercise a second or casting vote in the case of an equality of votes.

(2) In the absence of the Chairman, an officer of the Government in the Board, shall preside and he shall while so presiding, have all the powers of the Chairman.

(3) No business shall be transacted at any meeting of the Board unless one-half of the sanctioned number of members of the Board are present at the meeting.

9. *Dissolution of the Board.*—If, in the opinion of the Government, the Board persistently makes default in the performance of the duties imposed on it, or exceeds or abuses its powers, the Government may, by notification in the Gazette, dissolve the Board and thereupon the Chairman and the other members of the Board shall be deemed to have vacated their offices

and all the functions of the Board shall thereafter be exercised by such person or persons as may be appointed in that behalf by the Government until a new Board is constituted by the Government:

Provided that no order of dissolution shall be passed unless the Board is given an opportunity to show cause against the action proposed to be taken.

10. *Industries which may be aided.*—(1) The industries to which aid may be given under this Act shall be such as have an important bearing on the economic development of the country and shall be—

(i) a new or nascent industry;

(ii) an industry to be newly established in an area where such industries are undeveloped or are likely to be successful;

(iii) an industry which is likely to become more profitable by an investment of more capital;

(iv) small scale industries;

(v) cottage industries;

(vi) old or established industries; or

(vii) such other industrial concerns, as in the opinion of the Government, deserve State aid to be given in conformity with the provisions of this Act:

Provided that no State aid shall be given to any joint stock company unless—

(i) the company is registered in India with a rupee capital; and

(ii) the company agrees to maintain the prescribed proportion of Indians as members of its Board of Directors:

Provided further that every recipient of State aid shall make such provision for the training of apprentices as may be prescribed.

(2) The decision of the Government after consulting the board as to whether the conditions of this section are fulfilled shall be final and shall not be called in question in any court of law.

CHAPTER III

General provisions regarding the giving of State Aid

11. *Forms of State aid.*—Subject to the provisions of this Act and of the rules made thereunder, the Government shall have power to give State aid to an industry in one or more of the following ways:—

(a) by granting a loan;

(b) by guaranteeing of cash credit, overdraft or a fixed advance with a bank;

(c) by taking fully paid up shares or debentures:

Provided that the amount paid by the Government for such shares and debentures shall not exceed the amount already paid by other persons for shares and debentures in the same industry;

(d) by guaranteeing interest on preference shares or debentures;

(e) by guaranteeing a minimum return on the whole or part of the capital of a joint stock company;

(f) by the granting on favourable terms of land, raw materials, firewood, water or any other property of the Government subject to such terms and conditions as respects the repayment of the value of the aid granted, as may be prescribed;

(g) by paying a subsidy for the conduct of research or the purchase of machinery subject to such terms and conditions as respects the repayment of the value of the aid granted, as may be prescribed;

(h) by supplying machinery on hire purchase system.

12. *Conditions for the guarantee and grant under section 11(e) and (f).*—The condition for any payment under guarantee of a minimum return on the whole or part of the capital of a joint stock company or for the grant by the Government of land, raw materials, firewood, water or any other property on favourable terms shall ordinarily be that an amount equal to the sum paid or to the value of the grant or concession as fixed at the time when it is paid, shall be repaid to the Government at the close of a fixed term of years if within that term the industry shall be shown to be paying interest or a dividend upon the capital invested in excess of such rates as the Government may fix.

13. *Conditions for grant of loan.*—(1) No loan shall exceed the prescribed percentage of the value of the assets of the industry to which it is granted and of other property, if any, offered as collateral security without deducting the encumbrances, if any, existing thereon at the time when the application for the loan is made, the value being ascertained by the sanctioning authority in the prescribed manner.

(2) No loan shall be granted if the encumbrances on the assets of the industry and on other property offered as collateral security exceed 50 per cent of the value of such assets and collateral securities in the case of an existing industry and thirty-three and one-third per cent in the case of a new industry.

(3) The authority granting the loan shall, from out of the loan, discharge all encumbrances on the assets of the industry and other property, if any, offered as collateral security existing at the time when the application for the loan is made, and shall secure a first charge on the assets and other property aforesaid.

(4) Every loan shall be repayable in instalments within a period not exceeding twenty years after the date of advance of the loan, or where the loan is advanced in instalments, after the date of the advance of the last instalment.

(5) In special cases the Government, for reasons to be recorded in writing, may, on the application of the owner of an industry to which such loan has been granted, vary the terms fixed by the order granting the loan.

(6) All the insurable assets of the applicant offered as security shall be insured against loss or damage with the State Insurance Department and the policy assigned in favour of the Director of Industries and Commerce.

14. *Loans how secured.*—Every loan granted under this Act shall be secured by a mortgage upon the whole or such portion of the assets of the business or enterprise as the sanctioning authority may consider sufficient and where the whole of the assets of the business or enterprise is in the opinion of the sanctioning authority insufficient, by such collateral security as may be required by the sanctioning authority and shall bear interest payable on such dates and at such rates as the Government may determine.

15. *Application for State aid and authorities by whom aid may be granted.*—(1) All applications for State aid shall be made in the prescribed form to the District Industries Officer of the concerned district. The District Industries Officer shall make such enquiries as may be prescribed and such other enquiries as he deems fit on every such application. In the case of an application in which the sanctioning authority under sub-section (4) is the Regional Joint Director of Industries and Commerce, the Director or the Government, the District Industries Officer shall forward the application to the sanctioning authority together with the report of the enquiry conducted by him. Where the sanctioning authority is the Director, the application shall be forwarded to him through the Regional Joint Director of Industries and Commerce and where the sanctioning authority is the Government, the application shall be forwarded to the Government through the Regional Joint Director of Industries and Commerce and the Director.

(2) If the extent of the State aid applied for exceeds fifty thousand rupees and in any other case in which he so considers the Director shall publish a notice in the prescribed manner, calling upon any person who objects to the grant of the State aid applied for to state his objections at a time and place to be specified by the Director and shall hear such objections and make such enquiry as may be necessary.

(3) Every application for State aid exceeding Rs. 15,000 shall be placed before the Board and shall be granted only with its concurrence.

(4) Subject to the provisions of sub-section (3) the following authorities shall be competent to grant as State aid the amount or value specified against each:—

District Industries Officer	Not exceeding five thousand rupees.
Regional Joint Director of Industries and Commerce	Exceeding five thousand, but not exceeding ten thousand rupees.

Director	Exceeding ten thousand, but not exceeding twenty-five thousand rupees.
Government	Exceeding twenty-five thousand rupees.

(5) Nothing in sub-section (4) shall be deemed to empower the District Industries Officer or Regional Joint Director of Industries and Commerce or the Director to grant State aid on different occasions in respect of the same industry, if the aggregate amount or value of such aid exceeds five thousand rupees or ten thousand rupees or twenty-five thousand rupees, as the case may be.

16. *Supervision of assisted industry.*—During the continuance of State aid to any industry which has received aid under the Act, the Government may, by appointing directors or inspectors, or otherwise, take such steps as they deem advisable so to supervise the conduct of the industry as to safeguard the interests of the Government therein.

17. *Inspection and returns.*—In any case in which State aid has been applied for under this Act, the applicant and at any time during the currency of State aid that has been granted under it, the grantee, shall be bound—

(a) to comply with any general or special order of the Government relating to the inspection of the premises, building, or plant or stock in hand of the industrial business or enterprise;

(b) to permit the inspection of all accounts relating to the industrial business or enterprises;

(c) to furnish full returns of all products manufactured or sold both as regards description and quantity;

(d) to maintain such special accounts or to furnish such statements as the Government may from time to time require;

(e) to submit the accounts of the industrial business or enterprise to such audit as the Government may prescribe.

18. *Disposal of profits when condition of State aid is not fulfilled.*—(1) During the continuance of State aid to any industry the profits of such industry shall, if distributed, be distributed only after interest due on debentures and loans has been paid and a reasonable amount has been set aside for depreciation or obsolescence of machinery and buildings and a further reasonable amount has been carried to reserve fund to be utilised in the prescribed manner.

(2) No dividend shall be paid to shareholders and no profit shall be taken by the owner in excess of such percentage rate upon the amount of the capital of the industry as the Government may fix from time to time during the continuance of State aid to any industry.

19. *Power of Government to adjust security during currency of loans.*—If at any time the amount of any loan outstanding together with such interest as may be due thereon on account of any State aid given is found to exceed the percentage fixed under sub-section (1) of section 13, the Government may either recover so much of such balance as is in excess of such percentage or take such additional or collateral security as they may deem sufficient.

20. *Power of authority sanctioning the loan to terminate aid.*—(1) If the authority sanctioning the loan is satisfied—

(i) that the whole or any portion of the State aid given has been misapplied, or

(ii) that there has been a breach by the grantee of the aid of the provisions of this Act, or of any rule made thereunder or of any conditions of the grant, or

(iii) that the application on which the State aid has been granted contained or was accompanied by, any material statement by the grantee of the aid which he knew to be false or did not believe to be true or any intentional concealment by him of any material fact, which in the opinion of the authority sanctioning the loan it was his duty to disclose, that any such false statement or concealment was intentionally made in any inquiry made under this Act by or with the connivance of the owner or in any return under this Act or in reply to any requisition for information under this Act, or

(iv) that the industry is being managed in such manner as to endanger the repayment of the value of State aid granted thereto repayable under this Act,

the authority may by order in writing terminate the State aid specifying the reason or reasons therefor.

(2) No such order as mentioned in sub-section (1) shall be passed without giving the grantee an opportunity to show cause within a specified time why action should not be taken under this section.

(3) Where an order terminating the aid is made under sub-section (1), then, notwithstanding anything contained in this Act or in any other law, the authority sanctioning the aid may proceed to recover from the grantee of the aid, as arrears of land revenue,—

(a) the entire amount of any loan outstanding together with interest as may be due thereon, or

(b) in cases where the aid is given otherwise than by loan, the money value of the aid as fixed at the time when it was made, together with interest due thereon, and

(c) in the case mentioned in clause (a) or clause (b), the cost of recovery, and, if the Government so direct the cost of any inquiry made in connection therewith.

(4) An order made under this section shall be final and shall not be called in question in any court of law.

21. *Protection of action taken under the Act.*—No prosecution, suit or other proceeding shall lie against the Government or any officer of the Government or other authority vested with powers under this Act for anything in good faith done or intended to be done thereunder.

22. *Persons acting under this Act to be deemed public servants.*—The Chairman and the members of the Board and every person who acts on behalf of the Government under this Act, including every person who conducts an inquiry under this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

23. *Penalty.*—Whoever wilfully acts in contravention of the provisions of sub-section (6) of section 3 or section 17 shall, without prejudice to any other penalty or liability he may incur, be liable on conviction before a Magistrate of the first class to a fine not exceeding two bundred and fifty rupees.

CHAPTER IV

Special Provisions Relating to the Giving of State Aid by the Supply of Machinery on Hire Purchase System

24. *Percentage of value to be deposited by hirer.*—No machinery shall be supplied on hire purchase system unless the applicant therefor deposits with the authority competent to sanction State aid under this Act (hereinafter in this Chapter referred to, as the "sanctioning authority"), such percentage of the value thereof as may be prescribed.

25. *Particulars to be specified in the order when application is allowed.*—When an application for the supply of machinery on hire purchase system is allowed, the sanctioning authority shall, subject to and in accordance with any rules that may be made under this Act, make an order specifying the following particulars, namely:—

(a) the amount of each instalment of rent to be paid for the hire of the machinery and the number of such instalments to be paid before the machinery shall become the property of the hirer;

(b) the amount of interest, if any, to be paid with each instalment of rent on the remaining unpaid instalments;

(c) the dates on which and the manner in which the aforesaid payments shall be made; and

(d) such other particulars as may be prescribed.

26. *Conditions of supply of machinery on hire purchase system.*—Until the hiring is terminated in the manner hereinafter provided, the following provisions shall apply, namely:—

(a) The hirer shall pay punctually without demand the instalments of rent and amount of interest specified in the order referred to in section 25.

(b) The hirer shall retain the machinery in his own possession in good and serviceable order and condition and shall

not, without the previous written consent of the sanctioning authority either make any addition thereto or alteration therein, or remove the machinery from the premises specified in the application for the supply thereof.

(c) The machinery shall remain the sole and absolute property of the Government and any transfer thereof or assignment of any right, title or interest therein or the creation of any mortgage, encumbrance or any charge thereon by the hirer shall be void unless it has been made with the previous written consent of the Government.

(d) The machinery shall not be liable to distraint, attachment or sale by any process under any law for the time being in force without the written sanction of the Government.

(e) The machinery shall bear a metal plate in the prescribed form and any person who wilfully removes or defaces such plate shall on conviction be punishable with fine not exceeding five hundred rupees.

(f) The hirer shall permit the sanctioning authority or any person authorised by the sanctioning authority in this behalf to inspect the machinery at all reasonable times, and the sanctioning authority or such other person shall have all such powers of entry as may be necessary for the purpose of making an inspection.

(g) The hirer shall insure the machinery against any loss or damage for such amount and in such manner as may be prescribed and shall assign in favour of the Government the